

REMARKS

Claims 12-30 are cancelled, without prejudice, as being directed towards a previously non-elected invention. Claims 1 and 5 are amended. Claim 31 is new. No new subject matter is added. Reconsideration and allowance of claims 1-11 and 31 is requested in light of the following remarks.

Allowable Subject Matter

Claim 5 is indicated to be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph. The appropriate amendments have been made to claim 5, thus the applicant believes claim 5 is now in condition for allowance.

Claim Rejections - 35 USC § 112

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 5 are amended to recite that a length of the concave upper electrode is greater than a length of the bottom electrode. This feature is supported by the original application at, e.g., FIG. 4. Accordingly, these rejections are traversed.

Claim Rejections - 35 USC § 102

Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,472,754 to Nakajima, et al. ("Nakajima"). The applicant disagrees.

Claim 1 recites that a length of a bottom part of the concave upper electrode is greater than a length of the lower electrode. It is alleged that the recited lower electrode is taught by Nakajima's element 21 (FIG. 1).

To the contrary, Nakajima clearly states that element 21 is a polycrystalline silicon plug (column 9, line 25-26), and that element 24 is a cup-shaped lower electrode (column 9, lines 47-49). Nakajima FIG. 1 further shows that a length of a bottom part of the alleged concave upper electrode 26 is not greater than a length of the lower electrode 24. The length of the lower electrode 24 is clearly greater, since the cup-shaped lower electrode 24 surrounds the entire bottom portion of the upper electrode 26.

For the above reason, Nakajima fails to anticipate claim 1 because it does not disclose the identical invention in as complete detail as contained in the claim. MPEP 2131.

New Claim 31

New independent claim 31 is added. No new subject matter is added, as the features recited in claim 31 are fully supported by the original application at, e.g., claim 1, FIG. 4, and page 5, lines 31-33. Nakajima does not anticipate claim 31, because it does not show the identical invention in as complete detail as contained in the claim. MPEP 2131.

Conclusion

For the above reasons, reconsideration and allowance of claims 1-11 and 31 is requested. Please telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,


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